

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

**RICHARD C. ROBERTSON,

Defendant**

CRIMINAL NO. PJM-23-231

MOTION TO STAY BRIEFING SCHEDULE

Comes now the United States of America, by and through its counsel, and with the consent of the Defendant hereby respectfully moves to stay the briefing schedule pending a decision in the Fourth Circuit on the same issue presented in this appeal, and in support whereof states as follows:

1. On February 2, 2022, Richard Robertson was cited for possessing a firearm on the National Institutes of Health (NIH) campus, pursuant to 45 C.F.R. § 3.42(g). *See* Case No. TJS-22-867 (D. Md.).
2. He moved to dismiss the charges based on Second Amendment grounds. *Id.* at ECF 23. However, the Court rejected his position and upheld the constitutionality of § 3.42. *Id.* at ECF 36. Robertson was convicted of the charge. *Id.* at ECF 47.
3. This appeal followed. Robertson filed his opening brief on August 30, 2023. ECF 6.
4. The government currently has until January 5, 2024, to file its response brief.
5. The government notes that the precise issue being raised here (whether § 3.42(g) is constitutional under the Second Amendment) was previously raised in an appeal to this Court in *United States v. Marique*, PJM-22-467 (D. Md.). This Court ruled in favor of the government on this issue, and the defendant in that case has appealed the issue to the Fourth Circuit. The issue is currently being briefed in the Fourth Circuit.

6. The government submits that the briefing order in this case should be stayed pending the decision in *Marique*. The *Marique* appeal will consider the very issue that this Court would consider in this matter. Judicial economy militates in favor of a stay pending the resolution of *Marique*. The government submits that the Court should order the parties to file a status report and advise the Court about any request for a revised briefing order within 14 days of the decision in *Marique* in the Fourth Circuit.

7. Counsel for the government was in contact with counsel for Robertson on November 24, 2023. Robertson's counsel indicated therein via email that he would not oppose a stay pending the decision in *Marique*. The government concurs that it is advisable to stay proceedings in this case pending the outcome of the decision in the Fourth Circuit.

Wherefore, based on the foregoing, the government respectfully requests that the Court stay the current briefing schedule and order the parties to submit a status report within 14 days of the decision in *United States v. Marique*, Appeal No. 23-4576 (4th Cir.).

Respectfully submitted.

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/s/
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CERTIFICATE OF SERVICE

I certify that I filed the foregoing notice through the CM/ECF system which provided notice to counsel of record.

/s/
Jason D. Medinger
Assistant United States Attorney